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**REMARKS/ARGUMENTS**

This response is timely filed as it is filed within the ONE (1) month shortened statutory period for response to the outstanding Office Action.

Claims 1-40 are pending in the application.

**Restrictions/Elections**

Restriction to one of the following inventions has been required under 35 U.S.C. 121:

- I. Claims 1-10, 21 and 33-36, drawn to an actuator assembly, classified in class 102, subclass 202.9; and
- II. Claim 11-20, 22-32 and 37-40, drawn to an actuator assembly in combination with an interruptible electrical conductive member, classified in class 102, subclass 275.12.

The invention of Group II (i.e., claims 11-20, 22-32 and 37-40) is provisionally elected with traverse.

The Action alleges that the inventions are distinct, each from the other because:

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Inventions II or I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP §806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed as evidenced by claims 10 and 22 (Bsp vs ABbr). The subcombination has separate utility such as utility absent an interruptible electrical conductive member.

Such basis of restriction are respectfully traversed and reconsideration thereof is requested.

First, it is noted that MPEP §806.05(c), cited by the Examiner in support of the outstanding restriction requirement, specifically requires:

In order to establish that combination and subcombination inventions are distinct, **two-way distinctness must be demonstrated**. (Emphasis added.)

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It is respectfully submitted that the Action has failed to demonstrate two-way distinctness. In particular, the Action has failed to demonstrate that the combination claims (i.e., claims 11-20, 22-32 and 37-40) do not require the particulars of the subcombination (e.g., claims 1-10, 21 and 33-36), respectively.

In this regards it is noted that, claim 11 depends on claim 2, which in turn is dependent on claim 1, and claims 12-20 depend, directly or indirectly, on claim 11. Clearly, each of claims 11-20 requires the particulars of claims 1 and 2.

Moreover, independent claim 1 (on which claim, each of claims 2-10, 21 and 33-36, as well as each of claims 11-20, is dependent) is itself directed to an assembly (i.e., a combination) that comprises an actuator device and a support housing. As set forth above, as claims 11-20 are dependent on claim 1, such claims require the particulars of claim 1. Independent claim 22, similar to claim 1, also requires an actuator device and a support housing. Thus, the present application appears to be an instance where the combination as claimed sets forth the details of the subcombination as separately claimed, and thus restriction therebetween appears to be improper.

In view of the above, reconsideration and withdrawal of restriction between the inventions of Group I (e.g., claims 1-10, 21 and 33-36) and Group II (e.g., claims 11-20, 22-32 and 37-40) is respectfully requested.

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The application has also been alleged to contain claims directed to the following patentably distinct species of the claimed invention:

- Species A (illustrated in FIG. 1) (subcombination);
- Species B (illustrated in FIGS. 2A and 2B) (subcombination);
- Species C (illustrated in FIGS. 3A and 3B) (combination);
- Species D (illustrated in FIGS. 4A, 4B, 5A and 5B) (combination);
- Species E (illustrated in FIG. 6A) (subcombination);
- Species F (illustrated in FIG. 6B) (subcombination);
- Species G (illustrated in FIG. 6C) (subcombination);
- Species H (illustrated in FIG. 6D) (subcombination);
- Species I (illustrated in FIG. 6E) (subcombination); and
- Species J (illustrated in FIG. 6F) (subcombination).

Applicant has been required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held allowable.

Species D (illustrated in FIGS. 4A, 4B, 5A and 5B) is elected. Claims readable on species D include claims 11-13, 16-20, 22, 23, 26-32 and 37 from the above, provisionally-elected Invention Group II. Moreover, of the above,

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provisionally-elected Invention Group II, at least claims 11-13, 16-20, 22, 23, 26-32 and 37 are believed to be generic. In addition, each of claims 1-10, 21 and 33-36 is also believed to be readable on the so-elected invention species.

### **Conclusion**

It is believed that the above elections are properly responsive to the requirements contained in the Action and that the application is in condition for substantive examination. Should the Examiner detect any issue or have any question which might be resolved via a telephone discussion, the Examiner is kindly requested to contact the undersigned by telephone at the (847) 490-1400, in an effort to expedite examination of the application.

Respectfully submitted,



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